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Application Number	09/800,328
Filing Date	03/06/2001
First Named Inventor	Radatti, et. al.
Art Unit	2131
Examiner Name	Unknown
Attorney Docket Number	46-00

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ENCLOSURES (*Check all that apply*)

- ☐ Fee Transmittal Form
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- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/ Incomplete Application
- ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
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- ☐ Proprietary Information
- ☐ Status Letter
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Request for Reconsideration of Petition; Return Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

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Signature	
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#6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : Peter V. Radatti and Timothy R. Eliseo

Application Serial No.: 09/800,328

Group Art Unit: 2131

Atty Docket No.: 46-00

Filed: March 6, 2001

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Examiner: Not Yet Assigned (Special Programs Examiner LeDynh for the Petition)

For: APPARATUS AND METHODS FOR INTERCEPTING, EXAMINING AND CONTROLLING CODE, DATA AND FILES AND THEIR TRANSFER

REQUEST FOR RECONSIDERATION OF PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant hereby requests reconsideration of its petition, initially filed July 14, 2003, under 37 CFR § 1.102(d) and MPEP 708.02(VIII) that the subject application be accorded special status and advanced in order of examination. The petition was dismissed by way of a decision mailed September 4, 2003. This request for reconsideration is being mailed within the two month window for reconsideration.

In the dismissal, the Examiner stated Applicant's submission was deficient because sections (D) and (E) of MPEP 708.02(VIII) were not complied with. Specifically, under (D), Applicant did not limit the discussion to the references deemed most closely related, rather, Applicant included merely related references. Under (E), Applicant's description had numerous deficiencies.

Thus, Applicant herewith submits this Request For Reconsideration along with an Amended Petition. It is submitted that the deficiencies noted by the Examiner have been corrected herewith.

Finally, Applicant gratefully acknowledges the telephone discussion Examiner LeDynh had with the undersigned, Applicant's attorney, regarding the deficiencies in the July 14 petition.

The requirements of 37 C.F.R. § 1.102 and MPEP § 708.02 are fulfilled as follows:

1. A check for the appropriate fee ($130.00) as set forth in 37 C.F.R. §1.17(h) was previously furnished (with the July 14 Petition.)

2. The patent application filed on March 6, 2001, accorded U.S. Serial No. 09/800,314, as amended by a Preliminary Amendment filed on July 14, 2003, presents Claims 1-13 drawn to a single invention. In the event that restriction is required, an election will be made without traverse.

3. A pre-examination search was made. The classes and subclasses searched were **709/204, 709/217, 709/218, 709/230, 709/231, 709/232, 709/246, 709/250, 713/201, and 714/38.** An Information Disclosure Statement (IDS) was filed with the July 14 Petition. The listed publications, copies enclosed with the July 14 Petition, represent the results of the search.

4. A copy of each of the references reviewed below is enclosed for the record.

5. A detailed discussion of the references deemed most closely related to the subject matter encompassed by the claims is presented below. The discussion points out, with the particularity set forth in 37 C.F.R. §§ 1.111(b) and (c), that the claimed subject matter is patentable over the cited references.

Applicants respectfully submit that all requirements called for by the applicable rules have been fulfilled. Applicants respectfully request early favorable action on this request for reconsideration.

Detailed Description of the Cited Art

This detailed description is of the references deemed most closely related to the subject matter encompassed by the claims, and is submitted as part of the Petition to Make Special pursuant to 37 C.F.R. § 1.102 and MPEP § 708.02. The publications uncovered during the pre-examination search and cited by the Applicants are discussed below.

Claim 4 is the first independent claim. Claim 4 is representative of aspects of the invention. This claim is reproduced below for the Examiner's convenience. (Claims 1-3 have been deleted by Preliminary Amendment, filed July 14, 2003.)

4. An apparatus for processing secure code transmitted through a communications channel comprising:

- a protocol parser;
- a decryption component; and,
- a proscribed code scanner;

wherein said protocol parser intercepts secure code being transmitted through said communications channel and transfers said code to said decryption component for decryption and scanning by said proscribed code scanner.

U.S. Patent No. 5,983,348 to Ji discloses a scanner for Java script programs, transmitted via the Web. A downloaded applet passes through a conventional HTTP proxy server on its way to a Web browser and client. In the course of its reception, the applet is scanned by a program

installed on the proxy server for malicious code (static scanning.) In the course of its execution by the browser, the applet is scanned for malicious code by a feature of the browser (run time monitoring.) (see, e.g. Figure 1; Col. 4, line 55 to Col. 5, line 15.) The applet may then be signed to indicate acceptance, if desired. (Id.)

Insofar as a proxy server may be viewed as an apparatus for processing secure code transmitted through a communications channel, the '348 patent may be viewed as coming within the preamble of Claim 4 of the present invention. However, the '348 patent does not disclose, teach, suggest or even reference nor mention any protocol parser nor a decryption component, as do the first two elements of Claim 4. Rather the '348 patent discloses a conventional server, (e.g., a HTTP proxy server) and there is no parsing nor decryption of any protocols in the patent. (See, Summary, Col. 3, lines 19-25.)

Thus, insofar as the '348 patent lacks the first two elements of claim 4, Applicant respectfully submits claim 4 is patentable over the reference.

U.S. Patent No. 5,832,208 to Chen et. al. discloses an agent for scanning email attachments. The email attachments may be any type of file "used within, sent from or received by a mail server." (Col. 6, lines 59-64.) The attachments are detached from the email itself and forwarded to an antivirus program for scanning. (Summary at Col. 5, lines 6-10.) The agent operates from within the mail system and is not a firewall or proxy post office. (Summary at Col. 5, lines 17-20.)

Insofar as the email attachment interceptor of the '208 patent may be viewed as an apparatus for processing secure code transmitted through a communications channel, the '208 patent may be viewed as coming within the preamble of Claim 4 of the present invention. However, the '208 patent does not disclose, teach suggest, nor reference nor mention any

protocol parser, nor a decryption component, as do the first two elements of Claim 4. Thus, insofar as the '208 patent lacks the first two elements of claim 4, Applicant respectfully submits claim 4 is patentable over the reference.

U.S. Patent No. 5,889,943 to Ji , et al. and U.S. Patent No. 5,623,600 to Ji et. al. are similar and in fact the '943 patent is a continuation in part of the '600 patent. Both teach a FTP proxy server and a SMTP proxy server for intercepting code and scanning for viruses. (See Summaries of the Inventions, Col. 3, lines 7 – 54 of the '943 patent; Col. 2, line 39 – Col. 3, line 16.) The '943 patent additionally teaches an apparatus and method for downloading unread email from a postal node and scanning the email for viruses. (Col. 3 line 55 – Col. 4, line 16.)

Insofar as a proxy server may be viewed as an apparatus for processing secure code transmitted through a communications channel, the '943 and '600 patents may be viewed as coming within the preamble of Claim 4 of the present invention. However, neither patent discloses, teaches, suggests or even references or mentions any protocol parser nor a decryption component, as do the first two elements of Claim 4. Rather both patents discloses a conventional server, (e.g., a HTTP proxy server) and there is no parsing of any protocols in the patent. Thus, insofar as both the '943 and '600 patents lack the first two elements of claim 4, Applicant respectfully submits claim 4 is patentable over the references.

U.S. Patent No. 5,481,735 to Mortensen *et al.* teaches a method and apparatus for intercepting packets and modifying the intercepted packets. The '735 patent, through its interception and modification, tests networks. Insofar as the interceptor of the '735 patent may be viewed as an apparatus for processing secure code transmitted through a communications channel, it may be viewed as coming within the preamble of Claim 4 of the present invention. However, the '735 patent does not disclose, teach, suggest or even reference or mention any

protocol parser, nor a decryption component, as do the first two elements of Claim 4. Even if the disclosure of the patent is arguably viewed as a protocol-type parser – which Applicant does not believe to be the case – the '7835 patent lacks, as well, the third element of Claim 4. That is the '735 patent does not disclose, teach, suggest or even reference or mention any proscribed code scanner, as does the third element of Claim 4. Thus, insofar as the '725 patent lacks three elements of claim 4, Applicant respectfully submits claim 4 is patentable over the reference.

Accordingly, Applicant submits, insofar as none of the references disclose the elements of claim 4, claim 4 is patentable over the references. Dependant claims 5-7 have the limitations of claim 4. The references do not disclose, at the least, the protocol parser nor the decryption component element of each of these dependant claims, and in the case of the '735 patent, do not disclose the proscribed code scanner element as well. Therefore, Applicant submits, each of the dependant claims 5-7 are also patentable over the references.

Amended Claim 8 (by Preliminary Amendment, filed July 14, 2003) is a method claim similar to Claim 4. This claim is reproduced below for the Examiner's convenience.

8. A method for processing altered code comprising:

- decrypting said code;

- parsing said code;

- scanning said code for the presence of proscribed code; and,

- providing an indicator for the presence of said proscribed code.

The references as those set above with regard to claim 4.

In all the references, "decrypting" – the first element of Claim 8 –does not occur as had been discussed above with regard to the preamble of Claim 4. Nor does the second element, "parsing said code," is not occurring in the references. None of the references disclose, teach,

suggest, reference or mention decrypting or parsing of the code, as do the first and second elements of Claim 8.

The only reference that may even arguably be viewed as a parser, Applicant submits, is the '735 patent. However, the '735 patent lacks the second, third and forth element of the claim: it neither decrypts code, nor scans code for the presence of proscribed code nor provides an indicator for the presence of proscribed code.

Accordingly, Applicant submits, insofar as none of the references disclose the elements of claim 8, claim 8 is patentable over the references.

Dependant claims 9-11 have the limitations of claim 8. The references do not disclose, at the least, the decrypting nor parsing of code elements of each of these dependant claims, and in the case of the '735 patent, do not disclose the scanning element as well. Therefore, Applicant submits, each of the dependant claims 9-11 are also patentable over the references.

Amended Claim 12 (by Preliminary Amendment, filed July 14, 2003) is a method claim similar to Claim 8, and with the additional limitation of intercepting said code. This claim is reproduced below for the Examiner's convenience.

12. A method for processing secure code transmitted through a communications channel comprising:

- intercepting said code;
- parsing said code;
- decrypting said code;
- scanning said code for the presence of proscribed code; and,
- providing an indicator for the presence of said proscribed code.

As had been noted above, the references do not disclose, at the least, the decrypting nor parsing of code elements of claim 8, and in the case of the '735 patent, do not disclose the scanning element as well. Therefore, Applicant submits, independent claim 12, which shares those limitations with claim 8, is also patentable over the references.

Dependant claims 13-17 have the limitations of claim 12. The references do not disclose, at the least, the decrypting nor parsing of code elements of each of these dependant claims, and in the case of the '735 patent, do not disclose the scanning element as well. Therefore, Applicant submits, each of the dependant claims 13-17 are also patentable over the references.

Accordingly, Applicants respectfully request that the Petition to Make Special be granted, and that the application be taken out of turn for examination. Applicants also respectfully request, in light of the detailed description of the related art herein, early consideration and allowance of the solicited claims.

Respectfully submitted,

Date: 11-04-03

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